

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARK NUNEZ, et al.,

Plaintiffs,

-against-

CITY OF NEW YORK, et al.,

Defendants.

No.: 11 Civ. 5845 (LTS)(JCF)

DECLARATION OF MARY LYNNE WERLWAS

MARY LYNNE WERLWAS, an attorney duly admitted to practice before this Court and the courts of the State of New York, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an attorney at The Legal Aid Society Prisoners' Rights Project, counsel for Plaintiffs. I submit this Declaration in support of Plaintiffs' opposition to Defendants' motion to withhold documents in the above captioned matter.
2. Appended as exhibits hereto are true and complete copies of the following documents:
 - Exhibit 1: Plaintiffs' Request for Records, dated July 28, 2023.
 - Exhibit 2: Plaintiffs' Request for Records, dated August 31, 2023.
 - Exhibit 3: Emails from Monitoring Team, dated September 6, 2023 and September 12, 2023.
 - Exhibit 4: Emails from Monitoring Team, dated September 17, 2023 and September 20, 2023.
 - Exhibit 5: Emails between City Defendants and Plaintiffs' Counsel, dated August 9, 2023 and August 25, 2023.

Exhibit 6: Emails between City Defendants and Monitoring Team, dated September 21, 2023 to September 25, 2023.

Exhibit 7: Emails between City Defendants and Monitoring Team, dated September 21, 2023.

3. Plaintiffs requested the documents at issue in two sets. The first request was on July 28, 2023. *See* Exhibit 1, ¶ 8. The City asserted the law enforcement privilege as to these documents on a rolling basis beginning on September 20, 2023, *see* Exhibit 6, and in its letter to the Court on September 29, 2023. *See* Dkt. 529, n.1.
4. Plaintiffs second request was sent August 31, 2023. *See* Exhibit 2, ¶¶ 3, 9). The City asserted the law enforcement privilege as to these incidents on a rolling basis, on September 20, 2023 (use of force incidents), *see* Exhibit 6, September 21, 2023 (deaths of Mr. Tavares and Mr. Johnstone), *see* Exhibit 7, and September 25, 2023, *see* Exhibit 6, (death of Mr. Davis).
5. Counsel for the Plaintiffs, the United States Attorney's Office for the Southern District of New York, and Defendants, along with members of the Monitoring team, met and conferred about the requests on September 7, 2023 and September 8, 2023. Defendants did not assert the law enforcement privilege at those conferences as to these documents.
6. Appended as exhibits hereto are true and complete copies of the following documents:

Exhibit 8: Email from Alan Scheiner, dated June 6, 2023 regarding law enforcement privilege

Exhibit 9: The website <https://www.amny.com/police-fire/rikers-island/exclusive-correction-commissioner-mayor-adams-show-rikers-island-security->

[videos-in-effort-to-counter-federal-monitors-claims-of-misdeeds/](#), accessed October 10, 2023.

Exhibit 10: Email From Alan Scheiner, dated June 9, 2023

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 10, 2023
New York, New York

/s/

Mary Lynne Werlwas